holder may be appealed by the holder only. A decision by a lender adverse to the interest of the borrower is not a decision by the Agency, whether or not concurred in by the Agency. An adverse decision regarding a grant or direct loan application may be appealed by the applicant only. Appeals will be handled in accordance with 7 CFR part 11 of this title. Any party adversely affected by an Agency decision under this subpart may request a determination of appealability from the Director, National Appeals Division, USDA, within 30 days of the adverse decision.

§ 4280.106 Conflict of interest.

No conflict of interest or appearance of conflict of interest will be allowed. For purposes of this subpart, conflict of interest includes, but is not limited to, distribution or payment of grant, loan, and guaranteed loan funds or award of project contracts to an individual owner, partner, stockholder, or beneficiary of the applicant or borrower or a close relative of such an individual when such individual will retain any portion of the ownership of the applicant or borrower.

§ 4280.107 Applicant eligibility.

(a) To receive a grant or loan under this subpart, an applicant must meet each of the criteria, as applicable, as set forth in paragraphs (a)(1) through (5) of this section.

(1) The applicant must be an agricultural producer or rural small business.

(2) Individuals must be citizens of the United States (U.S.) or reside in the U.S. after being legally admitted for permanent residence.

(3) Entities must be at least 51 percent owned, directly or indirectly, by individuals who are either citizens of the U.S. or reside in the U.S. after being legally admitted for permanent residence.

(4) Applicants and owners will be ineligible to receive funds under this subpart as discussed in paragraphs (a)(4)(i) and (ii) of this section.

(i) If an applicant or owner has an outstanding judgment obtained by the U.S. in a Federal Court (other than in the United States Tax Court), is delinquent in the payment of Federal income taxes, or is delinquent on a Federal debt, the applicant is not eligible to receive a grant, direct loan, or guaranteed loan until the judgment is paid in full or otherwise satisfied or the delinquency is resolved.

(ii) If an applicant has been debarred from receiving Federal assistance, the applicant is not eligible to receive a grant, direct loan, or guaranteed loan under this subpart.

(5) A grant applicant must have demonstrated financial need.

(b) An applicant that has received one or more grants and/or loans under this program must make satisfactory progress, as determined by the Agency, toward completion of any previously funded projects before it will be considered for subsequent funding.

§ 4280.108 Project eligibility.

For a renewable energy system or energy efficiency improvement project to be eligible to receive a grant or loan under this subpart, the proposed project must meet each of the criteria, as applicable, in paragraphs (a) through (g) of this section.

(a) The project must be for the purchase of a renewable energy system or to make energy efficiency improvements.

(b) The project must be for a precommercial or commercially available, and replicable technology.

(c) The project must have technical merit, as determined using the procedures specified in § 4280.112(d).

(d) The project must be located in a rural area, as defined in § 4280.103.

(e) The applicant must be the owner of the project and control the revenues and expenses of the project, including operation and maintenance. A third-party under contract to the owner may be used to control revenues and expenses and manage the operation and/or maintenance of the project.

(f) Sites must be controlled by the agricultural producer or small business for the financing term of any associated Federal loans or loan guarantees.

(g) Satisfactory sources of revenue in an amount sufficient to provide for the operation, management, maintenance, and debt service of the project must be available for the life of the project.